

Message Text

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PAGE 01 STATE 271994

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NEA/ARN:PKBULLEN

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R 172202Z NOV 75

FM SECSTATE WASHDC

TO AMEMBASSY DAMASCUS

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PASS SHACKFORD PITCHER

E.O. 11652: NA

TAGS: AFIN-EAGR-SY

SUBJECT: TERMINATION OF INTRA BANK LIQUIDATION PROCEEDINGS
IN NEW YORK

1. DOJ HAS SUCCEEDED IN SETTLING OUT OF COURT THE TAX CLAIMS
ASSERTED BY THE STATE AND THE CITY OF NEW YORK AGAINST THE
LIQUIDATION RESERVE ADMINISTERED BY THE N.Y. SUPERINTENDENT
OF BANKS ON BEHALF OF CCC. (FYI: THE STATE CLAIM WAS SETTLED
FOR DOLS 125,000 AND THE CITY'S CLAIM FOR DOLS 106,000. END
FYI.)

2. SETTLEMENT AND PAYMENT OF THESE OUTSTANDING CLAIMS MAKES
IT NOW POSSIBLE TO TERMINATE THE LIQUIDATION PROCEEDINGS IN
NEW YORK; TO APPLY TO THE COURT FOR APPROVAL OF THE
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PAGE 02 STATE 271994

FINAL ACCOUNTING OF THE LIQUIDATION (TO BE SUBMITTED BY THE

SUPERINTENDENT); TO SEEK APPROVAL OF PAYMENT OF FEES FOR THE SUPERINTENDENT'S COUNSEL; AND TO TRANSFER THE BALANCE REMAINING IN THE LIQUIDATION RESERVE TO CCC (WHICH SHOULD BE IN EXCESS OF DOLS 800,000).

3. THE SUPERINTENDENT'S COUNSEL AND DOJ HAVE AGREED TO MOVE AS RAPIDLY AS POSSIBLE TO TERMINATE THE LEGAL PROCEEDINGS IN THE NEW YORK SUPREME COURT. IT WAS RECENTLY LEARNED THAT JUSTICE HELLMAN OF THE SUPREME COURT, WHO HAD BEEN ASSIGNED TO THE INTRA MATTER FOR ALL PURPOSES SOME SIX YEARS AGO, IS SCHEDULED TO RETIRE FROM THE BENCH IN THE NEAR FUTURE. IN VIEW OF JUSTICE HELLMAN'S DETAILED FAMILIARITY WITH THE COMPLEX BACKGROUND OF THE INTRA BANK LIQUIDATION, DOJ AND THE SUPERINTENDENT'S COUNSEL WOULD WISH, IF AT ALL POSSIBLE, TO HAVE JUSTICE HELLMAN PRESIDE OVER THE PROCEEDINGS SEEKING THE FORMAL TERMINATION OF THE LIQUIDATION. DOJ IS CONFIDENT THAT A SPEEDY TERMINATION OF THE LIQUIDATION COULD THUS BE ACHIEVED. IF ANOTHER JUSTICE WERE TO BE ASSIGNED TO THIS MATTER AT THIS LATE STAGE, IT CAN BE EXPECTED THAT THE TERMAINTION OF THE LIQUIDATION WOULD BE DELAYED FOR ANYWHERE FROM ONE TO TWO YEARS. THIS IF COURSE WOULD NOT BE TURNED OVER TO THE CCC DURING THAT PERIOD. IN ADDITION, FURTHER FEES AND EXPENSES FOR THE SUPERINTENDENT'S COUNSEL WOULD BE INCURRED, TO THE DETRIMENT OF CCC.

4. IN ARTICLE IV OF THE SEPTEMBER 24, 1973, SETTLEMENT AGREEMENT BETWEEN IIC AND CCC, IIC UNDERTOOK THE FOLLOWING:

QUOTE-INTRA, FOR ITSELF AND ITS SUCCESSORS AND ASSIGNS, HEREBY REMISES, RELEASES AND DISCHARGES CCC FROM ALL CLAIMS, DEMANDS, LIABILITIES AND OBLIGATIONS OF ANY KIND WHATSOEVER, IN ANY WAY ARISING OUT OF OR RELATING TO THE LIQUIDATION BY THE SUPERINTENDENT OF THE NEW YORK BUSINESS AND PROPERTY OF INTRA BANK, S.A.L. INTRA HEREBY REAFFIRMS THE RELEASE AND COVENANT EXECUTED BY IT ON SEPTEMBER 25, 1972, IN FAVOUR OF THE SUPERINTENDENT AND OTHER RELEASE BENEFICIARIES THEREIN NAMED. END QUOTE. THE PURPOSE OF THAT CLAUSE WAS, AMONG OTHER THINGS, TO ENSURE THAT INTRA WOULD INTERPOSE NO OBJECTION TO, OR IN ANY MANNER CHALLENGE, THE FINAL LIQUIDATION PROCEEDINGS IN NEW YORK. CHAIRMAN DAHDAH AND MR. HAMZA OF IIC LIMITED OFFICIAL USE

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PAGE 03 STATE 271994

UNDERSTOOD THAT DOJ WOULD SEE TO IT THAT THE SUPERINTENDENT FULLY ACCOUNTS FOR HIS ADMINISTRATION OF THE INTRA ASSETS IN NEW YORK. THEY FURTHER UNDERSTOOD THAT THIS WAS IN THE ENLIGHTENED SELF-INTEREST OF THE USG SINCE ANY BALANCE REMAPNING IN THE LIQUIDATION RESERVE INURED TO THE BENEFIT OF CCC.

5. A TECHNICAL, LEGAL PROBLEM HAS NOW ARISEN IN CONNECTION WITH THE FINAL PROCEEDINGS TO BE BROUGHT IN THE SUPREME

COURT OF NEW YORK. COUNSEL FOR THE SUPERINTENDENT ARE APPREHENSIVE THAT, DESPITE THE DISCLAIMER OF INTEREST IN THE LIQUIDATION RESERVE CONTAINED IN ARTICLE IV, ABOVE, JUSTICE HELLMAN MAY NEVERTHELESS INSIST THAT NOTICE BE GIVEN TO IIC OF THE PROPOSED FINAL ACCOUNTING AND PROCEEDINGS, AND THAT THEY BE GIVEN AN OPPORTUNITY TO BE HEARD, UNLESS THEY EXPRESSLY DISCLAIM THEIR INTENTION TO DO SO. CONSEQUENTLY, IT IS DOJ'S AND THE SUPERINTENDENT'S VIEW THAT IT IS IMPERATIVE THAT INTRA COMMUNICATE TO THE COURT THEIR LACK OF INTEREST IN THESE FINAL PROCEEDINGS, SO THAT THESE PROCEEDINGS MAY BE BROUGHT ON FORTHWITH.

6. YOU ARE REQUESTED TO USE YOUR BEST EFFORTS TO GET IN TOUCH WITH CHAIRMAN DAHDAH OR MR. HAMZA; TO EXPLAIN THE FOREGOING AND THE NEED FOR SPEEDY ACTION; AND TO URGE THEM TO DISPATCH A LETTER OR A CABLE (SUBSEQUENTLY CONFIRMED BY LETTER) TO THE SUPERINTENDENT, WITH SUBSTANTIALLY THE FOLLOWING TEXT:

QUOTE HONORABLE JOHN G. HEIMANN
SUPERINTENDENT OF BANKS OF THE STATE OF NEW YORK
2 WORLD TRADE CENTER
NEW YORK, NEW YORK

DEAR MR. HEIMANN:

BY THIS LETTER WE WISH TO CONFIRM THAT INTRA INVESTMENT COMPANY, THE SUCCESSOR TO INTRA BANK S.A., WAIVES ANY RIGHT TO RECEIVE NOTICE OF AND PARTICIPATE IN THE FINAL ACCOUNTING BY THE SUPERINTENDENT IN HIS CAPACITY AS LIQUIDATOR OF THE BUSINESS AND PROPERTY OF INTRA BANK S.A. IN THE STATE OF NEW YORK PURSUANT TO SECTION 606 OF THE NEW YORK BANKING LAW. WE UNDERSTAND THAT THE SUPERINTENDENT WILL MAKE AVAILABLE TO INTRA INVESTMENT COMPANY HIS FINAL REPORT AND ACCOUNTING AND LIMITED OFFICIAL USE

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PAGE 04 STATE 271994

SHALL CONTINUE TO COOPERATE WITH REPRESENTATIVES OF INTRA INVESTMENT COMPANY IN ANSWERING ANY REASONABLE QUESTIONS OF INTRA INVESTMENT COMPANY FOR THE PURPOSE OF RECONCILING ITS BOOKS OF ACCOUNT. UNQUOTE

7. IF ANY FURTHER EXPLANATIONS ARE NEEDED, PLEASE REQUEST MR. DAHDAH OR MR. HAMZA TO TELEPHONE RISTAU COLLECT AT DOJ (202/739-3308) OR AT HIS HOME IN ARLINGTON, VIRGINIA (703/528-2567). RISTAU HAS UNSUCCESSFULLY ATTEMPTED TO TELEPHONE THEM IN BEIRUT.

8. COPY OF THIS CABLE AIRPOUCHED TO BEIRUT NOV. 7 INGERSOLL

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Margaret P. Grafeld
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